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2 P.O. Box 1681  
3 Palo Alto, California 94302  
4 Phone (650) 248-1634  
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6 Plaintiff Joseph Ciampi, in pro se

FILED

2011 JUL 28 A 10:43

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
N.D. CA - SAN JOSE

7  
8 UNITED STATES DISTRICT COURT  
9  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
11 (SAN JOSE DIVISION)

12 JOSEPH CIAMPI

13  
14 Plaintiff,

15 v.

16 CITY OF PALO ALTO, a government  
17 entity; LYNNE JOHNSON, an individual;  
18 CHIEF DENNIS BURNS, an individual;  
19 OFFICER KELLY BURGER, an  
20 individual; OFFICER MANUEL  
21 TEMORES, an individual; OFFICER  
22 APRIL WAGNER, an individual;  
23 AGENT DAN RYAN; SERGEANT  
24 NATASHA POWERS, an individual.

25 Defendants.

Case No. C 09-02655 LHK (PSG)

**PLAINTIFF'S NOTICE TO COURT OF  
CONFLICTING CASE SCHEDULE AND  
COURT'S HEARING DATE; REQUEST  
TO ISSUE ORDER AND RE-SET CASE  
SCHEDULE:**

**Re: Court Docs. 169 & 179**

**[TITLE 28 PART 1 CHAPTER 21 § 455.  
(a) U.S. CODE];  
FRCiv.P. 60(b)(3)(6);  
FRCiv.P. 5(d)(2)(B);  
Civil L.R. 5-1  
RE: Court Docs. 123, 125 and 155**

26 Plaintiff has filed a Motion to Disqualify Judge Koh and to strike Defs.' Motion for  
27 Summary Judgment and to strike Judge Koh's ruling on the Motion for Summary Judgment due  
28

1 to violations of Federal Rules of Civil Procedure and a blatant pattern of bias decisions by Judge  
 2 Koh for Defendants demonstrating a complete lack of impartiality and a prejudice toward  
 3 Plaintiff, Court Documents 169, 173, 175, 176, 178 and 179.

4 Currently the court has issued a hearing on Plaintiff's Motion, Court Doc. 169, for  
 5 September 14, 2011 the same date as the Pre-Trial Conference.

6 According to Judge Koh's standing orders "GUIDELINES FOR FINAL PRETRIAL  
 7 CONFERENCE IN JURY TRIALS BEFORE DISTRICT JUDGE LUCY H. KOH," at least 21  
 8 days before the final Pretrial Conference, lead counsel who try the case shall meet and confer  
 9 with respect to; preparation of the Joint Pretrial Statement and Preparation and exchange of  
 10 pretrial materials to be served and lodged pursuant to Federal Rule of Civil Procedure 26(a)(3).  
 11 In addition, at least 14 days before the Pretrial Conference, unless otherwise ordered, the parties  
 12 shall lodge and serve a Joint Pretrial Statement and Proposed Order containing among other  
 13 things the following: Substance of Action; Relief Sought; Undisputed Facts; Disputed Facts;  
 14 Disputed Factual Issues; Agreed Statement; Stipulations; Witnesses to be called; Exhibits,  
 15 Schedules, Summaries; Disputed Legal Issues and Further Discovery or Motions. In addition, 14  
 16 days prior to the Pre-Trial Conference parties shall exchange all exhibits and file Motions in  
 17 Limine.

18 Defendants and Plaintiff will need to have prepared a substantial amount of material by  
 19 August 24, 2011 and August 31, 2011. Currently both Plaintiff and Defendants and Defendants'  
 20 counsel are preparing for trial which is set to begin on September 26, 2011 over one issue,  
 21 "Assault and Battery (against Defendants Temores, Burger, Wagner, and the City)", lines 4-5 of  
 22 pg. 30 of Court Doc. 155. However the issues to be tried could very well change and should  
 23 change substantially according to the Court's pending ruling on Plaintiff's Motion to Disqualify  
 24 Judge Koh and strike the Motion for Summary Judgment, Court Docs. 169 & 179 increasing the  
 25 materials, filings and exhibits.

26 Plaintiff anticipates the court ruling in favor of Plaintiff on Plaintiff's motion which will  
 27 result in re-instating all of Plaintiff's claims including the Fourth and Fourteenth Amendment  
 28

1 violations. Based upon the current case schedule, the Court's order of hearing Plaintiff's Motion  
 2 on the same date of the Pre-Trial Conference is conflict with the case schedule and the beginning  
 3 of the trial date of September 26, 2011.

4 Currently the Court's order, 178, is in conflict with the case schedule, for a decision on  
 5 Plaintiff's Motion needs to be decided well in advance of the "Pre-Trial Conference" deadlines  
 6 in order not to prejudice Plaintiff or the Defendants' ability to be prepared for the actual trial  
 7 currently set to begin September 26, 2011. Based upon the court's decision, the number of  
 8 exhibits alone could rise from 30 to 150 as an example.

9 In order to properly prepare for the trial and not prejudice Plaintiff or the Defendants,  
 10 Plaintiff requests that the court make its ruling on Plaintiff's Motion, Court Docs. 169 and 179 a  
 11 minimum of 21 days prior to the deadline established in Section "**A. Meeting and Disclosure**  
 12 **Prior to Pretrial Conference**" and or 30 days prior to "**B. Joint Pretrial Statement and**  
 13 **Order,**" of Judge Koh's Pre-Trial Conference Guidelines. Based upon the current case schedule,  
 14 Plaintiff requests that the court make its decision by August 3, 2011. This date could be pushed  
 15 back should the court vacate the current Pre-Trial Conference and Trial dates resetting them to  
 16 provide Plaintiff and Defendants the necessary time to prepare the issues to be tried.

17 Additionally, Plaintiff would like to point out that had an impartial Judge ruled accurately  
 18 on Defs.' Motion for Summary Judgment and Plaintiff's Opposition to Defs.' Mot. for Summ.  
 19 Judg. there was a high likelihood of Plaintiff obtaining legal representation for the remainder of  
 20 Plaintiff's case, see Exh. 700. The attorney's interest in representing Plaintiff was dependant  
 21 upon the Court sustaining Plaintiff's 4<sup>th</sup> and 14<sup>th</sup> amendment claims. Once the court issued its  
 22 faulty order, the attorney was no longer interested in the case. Plaintiff has redacted the  
 23 attorney's name out of a right to privacy, however should the court request the name of the  
 24 attorney; Plaintiff can provide his name and contact information *in camera* directly to the court  
 25 in order to retain the attorney's right to privacy.

26 It would take an attorney a minimum of three months to became familiar with all of the  
 27 evidence, (MAV videos, watermarks, Warren Page, taser videos, MPEG files, taser cameras,  
 28

1 taser guns, Data Ports, Andrew Hinz and all of the Discovery obtained in order to be prepared for  
 2 a Pre-Trial Conference and Trial). Due to the Court's bias and prejudicial ruling of Defs. Mot.  
 3 for Summ. Judg. the Court has prejudiced Plaintiff's ability to obtain legal counsel. Should the  
 4 Court strike Defs.' Mot. for Summ. Judg. and the Court's Order regarding the same, Plaintiff  
 5 requests that the Court establish a new case schedule that will enable any potential legal  
 6 representation obtained by Plaintiff the necessary time to properly prepare for a trial.

7  
 8 Based upon the above reasons, Plaintiff requests that the court issue an order on  
 9 Plaintiff's Motion, Court Docs. 169 and 179 by August 3, 2011 or in the alternative re-set the  
 10 current Pre-Trial Conference date six weeks after the court issues its order/decision on Plaintiff's  
 11 Motion, Court Docs. 169 and 179.

12 Contingent upon the Court granting Plaintiff's Motion, Court Docs. 169 and 179 and  
 13 based upon the above reasons, Plaintiff requests that the court establish a Pre-Trial Conference  
 14 date a minimum of Four Months from the date that the Order is issued consistent with the time  
 15 frame that was established between the Court's May 11, 2011 Order and the previously set Pre-  
 16 Trial Conference date of September 7, 2011.

17 **To quote Judge Lucy Koh and Senator Jeff Sessions during the February 11, 2011**  
 18 **Senate Judiciary Hearing:**

19 Sessions quoting Koh: *"Even when there is more diversity on the bench, minority*  
 20 *judges still need to maintain the disguise of objectivity or else face challenges to their*  
 21 *decisions."*

22 Koh: *"I completely disagree that there is no objectivity. Our system of justice requires*  
 23 *it. Litigants, parties, counsel, are entitled to objectivity and I think our rule of law would simply*  
 24 *break down if everyone were to just insert their own personal biases, our system of justice and*  
 25 *this Great Country exists because there is the rule of law which we all respect and I can assure*  
 26 *you Senator Sessions that in what I have done as an officer of the court as a corporate litigator,*  
 27 *in what I have done as an Assistant United States Attorney, as a Department of Justice*

**Attorney** and as a Judge I have faithfully followed the rule of law and I would not um let bias or prejudice in anyway influence my decision."

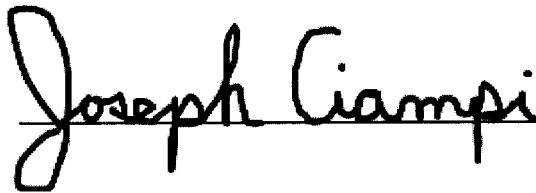
Sessions: "...the Judge takes that oath not to be a Respector of Persons and to impartially follow the law and the facts of the case, and that's the oath that they take and that's a deep thing and if a person appearing before the bench feels the judge's personal experiences, their ethnic background, their religion, **their political philosophy** causes them not to listen fairly to their case, **not to fairly find the facts in their case**, wouldn't you agree that the whole system is in jeopardy, actually you just said the system would be in jeopardy."

Koh: "I agree with you."

Sessions: "The whole American Legal System I guess Judge (Kratt), the whole cross-examination idea, things we were taught in law school is to me based on a belief that the truth is ascertainable there is some objectivity and **the process is to try to bring the truth out and judge's rule is to allow this process to occur in a fair and objective way** and then to honestly and objectively apply those truthfully found facts to the law, would you agree with that?"

KOH: "Yes Senator Sessions, **I agree whole heartedly, one-hundred percent.**"

Plaintiff



Dated: July 28, 2011

Plaintiff JOSEPH CIAMPI in pro se

Exhibit 700

Hotmail - t.ciampi@hotmail.com - Windows Live - Windows Internet Explorer

http://by164w.bay164.mail.live.com/default.aspx#!/mail/InboxLight.aspx?n=2050368576!fid=1&pdire=NextPage&... Google

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Hotmail

New Reply Reply all Forward Delete Junk Sweep Mark as Move to Back to messages

Inbox

Original taser videos available

2 messages 0 unread Show all

John [REDACTED] 5/10/11  
To Tony Ciampi Reply

From: John [REDACTED]

Sent: Tue 5/10/11 10:03 AM

To: Tony Ciampi (t.ciampi@hotmail.com)

Tony,

Call me after you receive the ruling on summary judgment. Plus – it would help if I could see the entire video.

After I see the entire video, then you can explain to me the significance of what has been destroyed or deleted.

John [REDACTED] 415/[REDACTED]

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

I, Joseph Ciampi, live in the aforesaid County, State of California; I am over the age of 18 years. My address is: P.O. Box 1681 Palo Alto, CA 94302.

On July 28, 2011 I served **PLAINTIFF'S NOTICE TO COURT OF CONFLICTING CASE SCHEDULE AND COURT'S HEARING DATE; REQUEST TO ISSUE ORDER AND RE-SET CASE SCHEDULE**: on the interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope/package, addressed as follows:

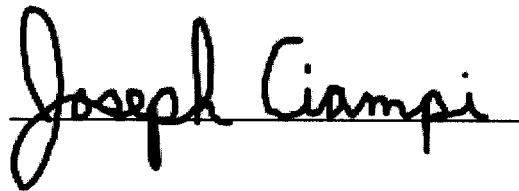
Steven A. Sherman, Esq. Bar No. 113621  
FERGUSAN, PRAET & SHERMAN  
A Professional Corporation  
1631 East 18<sup>th</sup> Street  
Santa Ana, California 92705-7101  
(714) 953-5300 Telephone  
(714) 953-1143 Facsimile  
Ssherman@law4cops.com

Attorney for Defendants

I placed such envelope/package for deposit, sealed, with postage thereon fully paid and the correspondence to be deposited in the United States mail at Palo Alto, California on the same day.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 28, 2011, at Palo Alto, California.

A handwritten signature in black ink that reads "Joseph Ciampi". The signature is written in a cursive, flowing style. The first name "Joseph" is written with a large, prominent "J" and "C". The last name "Ciampi" is written in a similar cursive style. The signature is written over a horizontal line.

Plaintiff JOSEPH CIAMPI in pro se